

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Statement of
Issues Against:

PAUL HENRY NILSON

Case No. 2013-127

Registered Nurse License Applicant

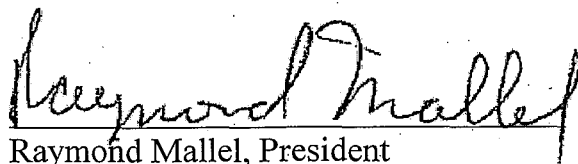
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **April 26, 2013**.

IT IS SO ORDERED **March 28, 2013**.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
2 Attorney General of California
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
State Bar No. 101336

4 AMANDA DODDS
Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **PAUL HENRY NILSON**

14 Respondent.

Case No. 2013-127

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Amanda Dodds, Senior Legal Analyst.

24 2. Respondent Paul Henry Nilson is represented in this proceeding by attorney Michael
25 A. Salorio, whose address is 1501 Octotillo Drive, Suite E, El Centro, CA 92243.

26 3. On or about December 6, 2011, the Board of Registered Nursing, Department of
27 Consumer Affairs received an application for a Registered Nurse License from Respondent. The
28 Board denied the application on May 14, 2012.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3

4
5
6

7

8
9
0
1

2
3
4
5
6
7
8

90

1

23

4
5

6

78

1 Registered Nursing may communicate directly with the Board regarding this stipulation and
2 settlement, without notice to or participation by Respondent or his counsel. By signing the
3 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
4 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
5 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
6 Order for Public Reapproval shall be of no force or effect, except for this paragraph, it shall be
7 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
8 further action by having considered this matter.

9 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
10 and Disciplinary Order for Public Reapproval, including facsimile signatures thereto, shall have the
11 same force and effect as the originals.

12 12. This Stipulated Settlement and Disciplinary Order for Public Reapproval is intended by
13 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
14 of their agreement. It supersedes any and all prior or contemporaneous agreements,
15 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
16 Settlement and Disciplinary Order for Public Reapproval may not be altered, amended, modified,
17 supplemented, or otherwise changed except by a writing executed by an authorized representative
18 of each of the parties.

19 13. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Board may, without further notice or formal proceeding, issue and enter the following
21 Disciplinary Order:


22 **DISCIPLINARY ORDER**

23 IT IS HEREBY ORDERED that the application of Respondent Paul Henry Nilson for
24 licensure is hereby granted. Upon successful completion of the licensure examination and all
25 other licensing requirements, a license shall be issued to Respondent. Said license shall, by way
26 of letter from the Board's Executive Officer, be publicly reapproved. The letter shall be in the same
27 form as the letter attached as Exhibit B to this stipulation.

28 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED:


DANIEL HENDRY WILSON

DATED:

MA

Dated:

Amanda Proctor

STIPULATED SETTLEMENT (Case No. 2013-127)

Exhibit A

Accusation No. 2013-127

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Statement of Issues
Against:

Case No. **2013-127**

13 **PAUL HENRY NILSON**

**FIRST AMENDED STATEMENT OF
ISSUES**

14 **Registered Nurse License Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Statement of
20 Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about December 6, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Paul Henry Nilson
24 (Respondent). On or about October 31, 2011, Paul Henry Nilson certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on May 14, 2012.

27 ///

28 ///

JURISDICTION

3. This First Amended Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3)(A) Done any act that if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the crime
4 or act is substantially related to the qualifications, functions, or duties of the business
5 or profession for which application is made.

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 7. Section 482 of the Code states:

17 Each board under the provisions of this code shall develop criteria to evaluate
18 the rehabilitation of a person when:

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

21 Each board shall take into account all competent evidence of rehabilitation
22 furnished by the applicant or licensee.

23 8. Section 2761 of the Code states:

24 The board may take disciplinary action against a certified or licensed nurse or
25 deny an application for a certificate or license for any of the following:

26 (a) Unprofessional conduct, which includes, but is not limited to, the
27 following:

28

(f) Conviction of a felony or of any offense substantially related to the
qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

. . . .

9. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning
of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

///

1 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
2 a licensed physician and surgeon, dentist, or podiatrist administer to himself or
3 herself, or furnish or administer to another, any controlled substance as defined in
4 Division 10 (commencing with Section 11000) of the Health and Safety Code or any
5 dangerous drug or dangerous device as defined in Section 4022.

6

7 (c) Be convicted of a criminal offense involving the prescription, consumption,
8 or self-administration of any of the substances described in subdivisions (a) and (b) of
9 this section, or the possession of, or falsification of a record pertaining to, the
10 substances described in subdivision (a) of this section, in which event the record of
11 the conviction is conclusive evidence thereof.

12

13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
16 registered nurse is deemed to be a conviction within the meaning of this article. The
17 board may order the license or certificate suspended or revoked, or may decline to
18 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under the
21 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
22 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
23 guilty, or dismissing the accusation, information or indictment.

24 REGULATORY PROVISIONS

25 11. California Code of Regulations, title 16, section 1444, states:

26 A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it
28 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code,
the board, in evaluating the rehabilitation of the applicant and his/her present
eligibility for a license will consider the following criteria:

1 (1) The nature and severity of the act(s) or crime(s) under consideration as
2 grounds for denial.

3 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
4 under consideration as grounds for denial which also could be considered as grounds
5 for denial under Section 480 of the code.

6 (3) The time that has elapsed since commission of the act(s) or crime(s)
7 referred to in subdivision (1) or (2).

8 (4) The extent to which the applicant has complied with any terms of parole,
9 probation, restitution, or any other sanctions lawfully imposed against the applicant.

10 (5) Evidence, if any, of rehabilitation submitted by the applicant.

11

12 DRUG

13 13. Marijuana is a Schedule I controlled substance as designated by Health and Safety
14 Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &
15 Professions Code section 4022.

16 FIRST CAUSE FOR DENIAL OF APPLICATION

17 (March 24, 1998 Criminal Convictions for Possession of Marijuana 18 & Drug Paraphernalia on March 13, 1998)

19 14. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
20 and (a)(3)(A), and 2761, subdivision (f) of the Code in that he was convicted of crimes that are
21 substantially related to the qualifications, duties, and functions of a registered nurse. Said
22 conduct would be a ground for discipline under 2762, subdivision (a) of the Code for a licensed
23 registered nurse. The circumstances are as follows:

24 a. On or about March 24, 1998, in a criminal proceeding entitled *State of Montana*
25 *v. Paul Henry Nilson*, in Missoula County Municipal Court, case number 55306, Respondent was
26 convicted on his plea of guilty to violating Montana Ann. Code sections 45-9-102, criminal
27 possession of dangerous drugs, and 45-10-103, criminal possession of drug paraphernalia,
28 misdemeanors.

b. As a result of the convictions, on or about March 24, 1998, Respondent was
sentenced to one year probation, ordered to complete a drug class, and pay fees and fines.

1 c. The circumstances that led to the convictions are that on or about the evening of
2 March 13, 1998, an officer with the University of Montana Police was dispatched to a dormitory
3 room in reference to a report of drug usage. Upon arrival, the officer noted a strong odor of
4 marijuana in the hallway. Respondent and four males were in a dormitory room with the resident
5 advisor. Respondent volunteered a small amount of marijuana to the officer and claimed
6 ownership. Respondent also claimed ownership for several smoking devices found in the room
7 occupied by Respondent.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 **(Illegal Possession of Marijuana on July 2, 2008)**

10 15. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
11 of the Code in that on or about July 2, 2008, Respondent illegally possessed marijuana. Such
12 conduct would be a ground for discipline under section 2762, subdivision (a) of the Code for a
13 licensed registered nurse. The circumstances are as follows:

14 a. On or about the morning of July 2, 2008, deputies from the San Bernardino
15 County Sheriff's Department were patrolling the area of Needles and made contact with
16 Respondent, who was a passenger in his friend's truck. Respondent and his friend told the
17 deputies that they were lost and needed directions to Laughlin, Nevada. Upon questioning by the
18 deputies, both Respondent and his friend were each found in possession of less than one ounce of
19 marijuana. Respondent told the deputies that they enjoyed smoking marijuana while fishing.
20 Both were cited and released at the scene.

21 b. As a result of the citation, on or about September 24, 2008, in a criminal
22 proceeding entitled *People of the State of California v. Paul Henry Nilson*, in San Bernardino
23 County Superior Court, case number MNE800160, Respondent was convicted on his plea of nolo
24 contendere to violating Penal Code section 415, disturbing the peace, an infraction. The court
25 dismissed the original charge of possession of less than one ounce of marijuana (Health & Saf.
26 Code, § 11357(b)), a misdemeanor, pursuant to a plea agreement.

27 c. As a result of the conviction, on or about September 24, 2008, Respondent
28 was ordered to pay \$471 in fines and fees.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Drug-Related Offenses)**

3 16. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
4 of the Code in that on or about March 24, 1998, Respondent was convicted of criminal offenses
5 involving the possession of marijuana and possession of drug paraphernalia, as described in
6 paragraph 14, above. Such conduct would be a ground for discipline under section 2762,
7 subdivision (c) of the Code for a licensed registered nurse.

8 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

9 **(Dishonesty – Making a False Statement of Fact Required to Be Revealed on Application)**

10 17. Respondent's application is subject to denial under Code section 480, subdivisions
11 (a)(2) and (c) in that Respondent made a false statement of fact required to be revealed in his
12 application to the Board as follows:

13 a. On or about February October 31, 2011, Respondent signed his Application for
14 Licensure by Examination certifying under penalty of perjury under the laws of the State of
15 California that his answers in the application were true and correct.

16 b. The application asked the following question:

17 Have you ever been convicted of **any** offense other than minor traffic violations? If
18 yes, explain fully as described in the applicant instructions. Convictions must be
19 reported if they have been adjudicated, dismissed or expunged or if a diversion
20 program has been completed under the Penal Code or Article 5 of the Vehicle Code.
21 Traffic violations involving driving under the influence, injury to persons or
22 providing false information must be reported. The definition of conviction includes a
23 plea of nolo contendere (no contest), as well as pleas or verdicts of guilty. **YOU**
24 **MUST INCLUDE MISDEMEANOR AS WELL AS FELONY CONVICTIONS.**

25 The form further stated that "Providing false information or omitting required information
26 is grounds for denial of licensure or license revocation in California."

27 c. Further, in the "General Information and Instructions" that accompanied the
28 license application package, it stated:

Applicants are required under law to report all misdemeanor and felony
convictions. "Driving under the influence" convictions must be reported.
Convictions must be reported even if they have been adjudicated, dismissed or
expunged or even if a court ordered diversion program has been completed under the

1 Penal Code or under Article 5 of the Vehicle Code. Also, all disciplinary action
2 against an applicant's registered nurse, practical nurse, vocational nurse or other
health care related license or certificate must be reported. Also any fine, infraction,
or traffic violation over \$300.00 must be reported.

3 **Failure to report prior convictions or disciplinary action is considered**
4 **falsification of application and is grounds for denial of licensure or revocation of**
5 **license.**


6 d. In response to the question, Respondent checked the box "No," failing to
7 disclose his March 24, 1998 convictions for criminal possession of dangerous drugs, and criminal
8 possession of drug paraphernalia, and his September 24, 2008 conviction for disturbing the peace,
9 even though the convictions met all criteria for disclosure. These convictions are detailed in
10 paragraphs 14 and 15, above, and are incorporated herein by reference.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Paul Henry Nilson for a Registered Nurse License;
15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: OCTOBER 12, 2012


18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

24
25
26
27
28 SD2012703718

Exhibit B

Letter of Public Reproval in Case No. 2013-127



March 28, 2013

Paul Henry Nilson
2315 Verde School Road
Holtville, CA 92250

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Statement of Issues Against: Paul Henry Nilson

Dear Mr. Nilson:

On October 12, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a First Amended Statement of Issues denying your application for licensure as a registered nurse.

On March 24, 1998, you were convicted on your plea of guilty in Missoula County Municipal Court of violating Montana Ann. Code §§ 45-9-102, criminal possession of dangerous drugs, and 45-10-103, criminal possession of drug paraphernalia, misdemeanors. These convictions subject your license to denial pursuant to Bus. & Prof. Code §§ 480(a)(1) and 2761(f). A drug-related criminal conviction would subject a registered nurse to disciplinary action under Bus. & Prof. Code § 2761(c), within the meaning of section 480(a)(3)(A).


On July 2, 2008, you were cited for possessing less than one ounce of marijuana. You pled no contest to violating Pen. Code § 415, disturbing the peace, an infraction. Illegal possession of a controlled substance would subject a registered nurse to disciplinary action under Code section 2762(a), within the meaning of Code section 480(a)(3)(A). You failed to declare this legal action on your application, which is a cause for denial under Code section 480(c).

In mitigation, you provided letters of recommendation from Imperial Valley College, the City of Holtville Fire Department, and the El Centro Regional Medical Center attesting to your personal and professional qualifications. You also provided proof of compliance with your court-ordered requirements.

Taking into consideration these mitigating factors, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice Registered Nursing, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California